

IN THE COURT OF THE ADDL. SESSIONS JUDGE-V,
THIRUVANANTHAPURAM

PRESENT :SRI. SIJU SHEIK, ADDL.SESSIONS JUDGE-V

Friday 28th day of February 2025/9th Phalgunam, 1946

Sessions Case No: 626/2012

(C.P. No.87/2011 of Judicial First Class Magistrate Court-I, Attingal in Crime No.304/2010 of Chirayinkeezhu Station.)

Complainant:-

State of Kerala represented by Circle Inspector of Police, Attingal Police Station.

By Addl. Public Prosecutor Sri. Rajesh B S.

Accused:-

- A1. Sajeev @ Beedi, S/o Sasi @ Beediyen, residing at Charuvila Veedu, Pammankod, Parayathukonam, Kizhuvilam Desom, Kizhuvilam Village,(Parayaravilakam Laksham Veedu No.84, Ward No.17, Valiya Ela, Koonthalloor Village).
- A2. Shibu @ Ayirampallan, S/o Suseelan, Charuvila Puthen Veedu, Pammankod, Chittattinkara Desom, Kizhuvilam Village.

**By Advocate. Kishore Kumar (Deputy Chief Legal Aid
Defense Counsel)**

Charge : Offence U/ss 120B,201, 302 r/w 34 IPC.

Plea : Not guilty

Finding : Guilty

Sentence or Order :

(a) Accused No.1 is sentenced to undergo rigorous imprisonment for life and to pay fine of Rs.1,00,000/- (Rupees One Lakh only) and in default of payment of fine, to undergo

rigorous imprisonment for a further period of one year for the offence punishable Under Section 302 of the IPC.

(b) Accused Nos.1 and 2 are sentenced to undergo rigorous imprisonment for a period of 2 (Two) years each and to pay fine of Rs.10,000/- (Rupees Ten Thousand only) each and in default of payment of fine, to undergo rigorous imprisonment for a further period of One month each for the offence punishable Under Section 201 r/w Section 34 of the IPC.

(c) If fine amount is paid, Rs.1 lakh shall be paid to PW1, the wife of the deceased Vinayakumar, U/S. 357(1)(b) Cr.P.C.

(d) The sentences shall run concurrently.

(e). The accused are entitled to set off their under trial imprisonment against the substantive sentence U/S 428 of the CrPC. If the Government exercises its powers U/S 433 of the Cr.P.C., the period during which the accused No.1 had been in custody in connection with this case will be set off and the default clauses mentioned above will come into force.

Trial Commenced on : 12/12/2024

Trial Closed on : 20/02/2025

Number of days case stood for trial : 12/12/24, 13/12/24, 16/12/24,
 17/12/24, 18/12/24, 21/12/24,
 28/12/24, 10/01/25, 22/01/25,
 05/02/25, 11/02/25, 13/02/25,
 18/02/25, 19/02/25 & 20/02/25.
 (15 days)

This Sessions Case having been finally heard on 24/02/2025 and the court on 28/02/2025 delivered the following:-

JUDGMENT

The Circle Inspector of Police, Attingal, filed a final report in Crime No.304/2010 of Chirayinkeezh Police Station, alleging offences punishable Under Sections 120B, 201, 302 read with Section 34 of the Indian Penal Code.

2. The prosecution case in brief is as follows:-

On 13/05/2010, the accused entered into a criminal conspiracy, and accused No. 1, in furtherance of the common intention to cause the death of Vinayakumar @ Vinayan @ Vinod, inflicted an injury on his head using an iron bar. Due to the impact of the blow, Vinayakumar fell to the floor. Accused No. 1, then hacked his head again with a chopper, committing the murder of Vinayakumar, while he was at his house situated in Kizhuvilam Panchayath, Ward No. VIII/159, Nainakonam Laksham Veedu Colony, Kizhuvilam Village. The accused, to cause the disappearance of evidence, concealed the weapons, such as the chopper and iron bar, that were used to commit the murder of Vinayakumar. By these actions, the accused committed the offences punishable Under Sections 120B, 201, and 302, r/w Section 34 of the Indian Penal Code.

3. The accused appeared before the Judicial First Class Magistrate Court – I, Attingal, and were released on bail. After complying with all legal formalities, the case was committed to the Court of Sessions under

Section 209 of the CrPC on 04/05/2012, and from there, the case was transferred to this Court for trial and disposal.

4. The accused appeared before the Court and engaged counsel of their own choice. Thereafter, A1 absconded. He was subsequently arrested, produced, and continues to be in judicial custody. He was later admitted to the Mental Health Centre. A certificate was obtained from the Mental Health Centre, stating that accused No. 1 is fit to stand trial. In the meantime, the lawyers representing the accused relinquished their vakalath, and upon the application of the accused, the Deputy Chief Legal Aid Defence Counsel appeared for them.

5. On the part of prosecution, PWs 1 to 17 were examined and Exts.P1 to P18 were marked. MOs 1 to 8 were identified by the witnesses.

6. After the prosecution evidence, the accused were examined U/S 313(1)(b) CrPC. They denied all the incriminating evidence brought against them. Accused No. 2 submitted that he is a temporary employee of KSEB. He obtained a loan from the panchayath to construct a house. While the construction of the house was ongoing, iron bars and cement packets were stored there. The iron bars were cut and kept for the purpose of concreting. Accused No. 1 took one such iron bar from there, attacked the deceased with it, and then returned it to its place. The police dog reached near that iron bar, and accordingly, it was seized. Accused No. 2 was not present at his house during this time. The people assembled there told the police that the house belonged to him. He was

taken by the police, in the presence of the Overseer of KSEB, solely for the purpose of questioning. He is completely innocent in this case and has no knowledge of the incident.

7. Thereafter, both sides were heard U/S 232 CrPC. As there was ground for proceeding, the accused were called upon to enter on their evidence. But no defence evidence was adduced.

8. Heard both sides.

9. Points for determination are:

- (I) Whether the accused No.1, in furtherance of the common intention of both the accused, committed the murder of Vinayakumar @ Vinayan @ Vinod on 13/05/2010, as alleged by the prosecution?
- (ii) Whether the accused entered into a criminal conspiracy on 13/05/2010 with the intention of causing the death of Vinayakumar @ Vinayan @ Vinod and also to cause the disappearance of evidence with respect to the commission of the offence, as alleged?
- (iii) Whether accused No. 2, in furtherance of the common intention of both accused, caused the disappearance of evidence by concealing the chopper and iron bar, which were used to commit the murder of Vinayakumar @ Vinayan @ Vinod, as alleged?
- (iv) What is the sentence or order to be passed ?

10. **Point No. (I) to (iii):-**

(To streamline the discussion, these points are considered together for brevity.)

The prosecution allegation is as stated above. To prove the prosecution case that, the accused committed the murder of Vinayakumar @ Vinayan @ Vinod, PW1 to PW17 were examined. I shall read their evidence before addressing the rival contentions.

11. PW1, the wife of the deceased, deposed that her husband, Vinayan, was murdered on 13/05/2010. On that day, she was out of the house to receive a caste certificate from the Muttathara Village Office. Since she was unable to obtain the certificate on that day, she stayed at her mother-in-law's rental house. The next day, at 8:30 AM, when she returned home, she found her husband lying dead. Her husband and his elder brother, Anil Kumar, were present in the house that night. Anil Kumar told her that, on that day, he had come to the house after consuming liquor. At that time, her husband was present in the house. He told Anil Kumar that he would go to bed after feeding their goat. Thereafter, Anil Kumar went to bed after closing the room. On 14/05/2010, at 6 AM, her mother-in-law received a phone call requesting her to come home immediately. Accordingly, they reached home. The people living nearby told them that accused No. 1, Sajeev, had chopped her husband. Thereafter, she lodged Ext. P1 FIS. She identified MO1 series as the clothes her husband was wearing at the time of his death.

MO2 is a waist thread worn by her husband, and MO3 is one of the slippers he wore.

12. PW2 deposed that Vinayan died in connection with the incident in this case. Accused No. 1 told him that he had engaged in a scuffle with Vinayan on the evening of the day he was murdered. Accused No. 1 is his neighbour. He found Sajeev at around 10:30 PM, while he was returning home after buying a cigarette from the shop of his friend's mother. Shibu and Binu were also present with Sajeev. He noticed blood stains on the dhoti worn by Sajeev. He enquired about it, and Sajeev told him that, on that day at 3 PM, he went with Vinayan to Karunthalkadav, to consume liquor. There, a scuffle occurred following an argument. During that night, in retaliation, he beat Vinayan. PW2 stated that, the next morning, he learned about Vinayan's death. When he returned home after his bath, he found Sajeev talking to his contractor and also to Binu. He asked Sajeev about Vinayan's death. Upon hearing this, Sajeev became stressed and said that he was leaving the place and borrowed Rs.500/- from the contractor. After that, PW2 did not see Sajeev again. PW2 identified Sajeev while he was in the dock. PW2 repeated his version during cross-examination as well.

13. PW3 deposed that he resides at Pammankode and has knowledge of Vinayan's death. The incident occurred on 13/05/2010. On that day, at 8:30 PM, while he was at home watching a serial, Sajeev came to his house and asked him to come along for some work. However, he refused

to go with him. Rakesh and Sudhi were present with him at that time. Sajeev was holding an iron rod in his hand, and Shibu also accompanied them. The next morning, while he was tapping a rubber tree, he saw Sajeev going to the pond. He identified both accused.

14. PW4 turned hostile to the prosecution side.

15. PW5 deposed that he is a social worker. He was present while the police were preparing the inquest and examining the body of the deceased, Vinayan. He was an attestor to Ext. P3, the inquest report. He identified MO1 to MO3, the clothes and waist thread seized from the body of Vinayan, as well as one slipper. He further identified MO4, an iron bar, which was seized from the scene.

16. PW6 stated that he knows Sajeev, who is present in court. On 14/05/2010, Sajeev borrowed Rs. 500/- from him. After that, he did not see him again.

17. PW7 stated that one day in May 2010, while he was talking with his friend Rajesh at Ayurveda Junction, he saw accused No. 1, Sajeev. Sajeev asked him to accompany him to Pammankode, and he and his friend agreed to go with him. They went to the house of accused No. 2, Shibu. Sajeev took an iron bar from Shibu's house. He saw Sajeev head towards the road leading to the house of the deceased, Vinayan, that night. He then withdrew from their company and went home. He identified MO5 as

the iron rod that accused No. 1 took from the house of accused No. 2. He reiterated his version during cross-examination as well.

18. PW8 deposed that he is an attestor to Ext. P4, the recovery mahazar. He saw the police seizing a chopper and an iron rod near his house. Accused No. 2 was also present with the police. During cross-examination, he stated that he did not see from where the MOs were recovered. He found the police after they had seized the weapons. He further stated that the MOs were seized from Charuvilla House at Pammankode, and that the police were coming from the house of accused No. 2, Shibu.

19. PW9 stated that he resides at Pammankode. On 13/05/2010, at around 7:30–8:00 PM, while he was standing in front of his house, he saw Sajeev going towards the Ninamkonam area with an iron rod. Later, at around 10:00–10:30 PM, Sajeev approached him at his house. He noticed blood on Sajeev's body. When asked, Sajeev stated that he had attacked Vinayan. PW9 identified MO5 as the iron rod held by Sajeev.

20. PW10, Grade Head Constable at Chirayinkeezh Police Station, deposed that he handed over the body of Vinayan to CW18 to bury the body as per religious rites.

21. PW11, the Village Officer of Kizhuvilam at the relevant time, stated that he inspected the scene of the crime and prepared Ext. P5, the scene plan, which contained his signature and office seal.

22. PW12, the SHO of Chirayinkeezh Police Station, stated that on 14/05/2010, at 8:15 AM, he inspected the house where the incident occurred and recorded Ext. P1, the FIS given by CW1. Based on the FIS, he registered Ext. P6, the FIR under Section 302 of the IPC. He stated during cross-examination that the deceased, Vinayan, had been involved in assault cases.

23. PW13, the Circle Inspector of Attingal, prepared Ext. P3, the inquest, after examining the body of the deceased, Vinayakumar. He seized MO1 to MO3, which were the clothes, waist thread, and a slipper from the body of the deceased, and MO4, an iron bar. The Scientific Assistant who accompanied him collected blood-stained soil and ordinary soil from the scene of the crime. He handed over the MOs recovered during the preparation of the inquest report to the Court via Ext. P7, the property list. During his preliminary investigation, it was revealed that Sajeev was responsible for Vinayan's death. He stated during cross-examination that, according to the inquest report, the deceased was last found alive with his brother, Anil Kumar.

24. CW19, who conducted the postmortem examination of the deceased, Vinayan, is no longer alive. Hence, the prosecution examined Dr. Sarija, who is familiar with the signature of CW19, as PW14. She stated that Ext. P8, the postmortem certificate, was issued by CW19, Dr. P. Rema, and it contained her signature and office seal. Dr. Sarija, a Professor and Police Surgeon, provided evidence regarding the contents

of Ext. P8, the postmortem certificate. It indicates that rigor mortis was fully established and retained all over the body. Postmortem staining was faint on the front and back of the trunk and not fixed. Dr. Rema had noted the following antemortem injuries:

1. Incised penetrating wound 5.5x1x1 cm, horizontal on the left side of the head, 5.5 cm above the top of the ear. The parietal bone underneath showed a clean cut involving the whole thickness 6x1cm exposing the dura.
2. Incised wound 9.5x1.5x1cm horizontal on the back of head across midline 10cm above root of neck with two side cuts 2.5x0.5cm and 1.5x0.5cm along the lower border at left end and 2cm inner to left end respectively.
3. Incised wound 6x0.5x0.5cm horizontal on the back of head 1 cm above injury no (2) and parallel to it.
4. Incised wound 7x0.5x0.5cm horizontal on the back of head 3.5cm above injury no (3).
5. Incised wound 4x1x0.5cm oblique on left side of back of head, its upper inner end 3 cm to left of occiput and 1 cm below injury no. (4) and cutting the left end of injury no.(3).
Underneath injury nos (2) to (5) the occipital bone fractured and fragmented over an area 6x6cm with fissured fracture 11 cm long extending forwards through left parietal bone 3cm above bony injury in injury no.(1).
6. Contusion 7x4.5x0.5cm on left side of forehead and adjacent part of side of head 5cm outer to midline and just above orbital margin seen on dissection). Upper orbital margin showed a fissured fracture 3cm long and oblique. The temporal bone underneath fractured and fragmented and depressed over an area 5.5x4.5x0.3cm. Dura underneath torn over an area 4x3cm.

7. Lacerated wounds 2x1.5x0.3cm and 1.5x1x0.3cm one below the other 0.5cm apart on inner aspect of lower lip in the middle with an abrasion 3x2cm in the middle on chin just below lip margin.
8. Lacerated wound 0.5x0.5x0.5cm on the inner aspect of upper lip in the middle.
The right central and lateral incis or tooth of upper jaw seen fractured at their root and depressed.
Brain showed bilateral subdural and subarachnoid bleed, contusions on under surface of temporal lobes (Right- 5x4x0.5cm; Left- 8x5x0.5cm) laceration on outer aspect of left temporal lobe (4x4x1cm) and signs of raised intracranial tension. Anterior cranial fossa fractured and fragmented.
9. Multiple contused abrasions over an area 5x5cm on forehead in the middle and to the right side just above root of nose.
10. Abrasion 5x3cm on right cheek
11. Multiple small abrasions over an area 4x2cm on right side of nose
12. Abrasion 1x1cm on left ala of nose
13. Multiple small abrasions over an area 4x2cm on the back of right forearm just below elbow
14. Abrasion 1x1cm on the back of right forearm 9cm above wrist.
15. Contusion 4x3x0.5cm on the back of right hand.
16. Incised wound 1.5x0.5x0.5cm on the back of middle of right middle finger
17. Abrasion 0.5x0.5cm on the front of chest 18cm below front fold of right armpit
18. Abrasion 2x1cm on right side of front of chest 1.5cm outer to midline and 3cm above costal margin.

19. Two contused abrasions 10x1cm and 13x0.5-1cm, parallel, horizontal 2.5cm apart one below the other on the back of right shoulder 4cm below tip of shoulder.
20. Multiple small abrasions over an area 7x5cm on the back of neck in the middle 1cm above root of neck.
21. Multiple small abrasions over an area 6x3cm on the back of chest 6cm to left of midline and 5cm below top of shoulder.
22. Abrasion 2x0.5cm on back of trunk 8cm to left of midline and 27cm below top of shoulder.
23. Abrasion 2x1cm on middle of right buttock 2cm outer to natal cleft.

Air passages were pale and stained with blood. Lungs were edematous. Stomach was three fourth full with firm rice and other unidentifiable food particles having no unusual smell, mucosa pale. Splenic capsule wrinkled. Subendocardial bleed was noted in left ventricle of heart. Urinary bladder contained 50cc of clear urine. All other internal organs were normal. Alcohol like smell was present in body cavity. Sample of blood and viscera were preserved and sent for chemical analysis. The blood group of the deceased was determined at the Blood Bank, Medical College Hospital, Thiruvananthapuram and found to be 'B' Rh positive. Sample of scalp hair was collected and handed over to HC.No. 7327 in a sealed packet.

25. The opinion as to cause of death is injuries sustained to head. Injury Nos. 1 to 8 with their effect on brain, is sufficient in the ordinary course of nature to cause death. PW14 opined that injuries Nos. 1 to 5 would

have been caused by MO6, a chopper. She further opined that injuries Nos. 6, 7, and 8 would have been caused by MO5, an iron rod.

26. PW15 is an attester to Ext.P4, recovery mahazar.
27. PW16, Circle Inspector of Police, Attingal, laid final report against the accused, after verifying the records.
28. PW17 deposed that, while he was working as Circle Inspector in Attingal, he arrested accused No.1, Sajeev, on 15/06/2010 at 6:30 PM. Exts. P9, P9(a), and P9(b) are the arrest documents. He obtained custody of the accused from the Court, and the accused confessed that the chopper and iron bar used to commit the offence were given to accused No.2. The shirt and dhoti worn by him at the time of the incident were kept at Pammankode Colony, and he would show them if he was brought there. PW17 deposed that he arrived at a building situated on the eastern side of a narrow passage leading from Pammankode Colony to Mudapuram Kasaya Hospital, as guided by the accused. The accused entered the building and took the shirt and dhoti from over the kitchen slab. The dhoti and shirt were blood-stained, and he recovered them on 25/06/2010 at 11:30 AM, as per Ext. P10, the recovery mahazar, in the presence of witnesses. Ext. P10(a) is the relevant portion of the confession statement made by the accused, which was noted in Ext. P10 recovery mahazar. He identified the said dhoti and shirt as MO7 and MO8. These MOs were produced before the Court via Ext. P11, the property list. Thereafter, he filed Ext. P12, a report showing the name

and full address of accused No.1. He also filed Ext. P13, a report showing the date and time of the death of the deceased Vinayan. He filed Ext. P14, a report implicating accused No.2 and also continuing the investigation for the offences punishable under Sections 120B, 201, 302, and 34 of the IPC.

29. On 27/08/2010, he arrested accused No.2 near the workshop located at Technopark, Kazhakuttom, and Exts. P15, P15(a), and P15(b) are the arrest documents. Accused No.2 confessed that the chopper and iron bar were kept at a place in his house and he would show them if he was brought there. He then proceeded there, as guided by accused No.2. Accused No.2 took the iron bar and chopper from behind the 6th arecanut reaper of the thatched roof of the kitchen in his house. He recovered them as per Ext. P4, the recovery mahazar. Ext. P4(a) is the relevant portion of his confession statement noted in Ext. P4. PW17 identified MO5 and MO6 as the iron rod and chopper, respectively. He produced them before the Court via Ext. P16, the property list. The Court received them as per T NO.437/2010. PW17 identified both the accused while they were in the dock. The MOs were forwarded for forensic examination, and Ext. P17 is the forwarding note prepared by him for the purpose. After the examination, he received Ext. P18, the FSL report. As per this report, items Nos. 1 to 5, 8, and 9 contained human blood of group B. Item No.6 also contained blood, and item No.7 contained human hair.

30. During cross-examination, he stated that, on 13/05/2010, when the incident occurred, the deceased and his brother were the only ones staying in the house. The body was found in the courtyard of the house. No crime was pending against accused No.1 or the deceased in connection with any scuffle between them. However, he acknowledged that a scuffle had occurred between them. He denied the defence's allegation that Exts. P4(a) and P10(a) do not clearly disclose the exact place where the MOs are alleged to have been hidden. He stated that he had kept the MOs for the purpose of showing them to the doctor who conducted the postmortem examination. The MOs were entered in the property register of the Police Station. He denied the defence claim that accused No.1 did not visit the scene of the crime at the relevant time and date.

31. In this case, CW2 to CW5, CW12, CW14, CW15, CW18, and CW19 were not examined. CW2 to CW4, CW18, and CW19 are no longer alive. CW5 is in the Gulf. CW12 is bedridden. CW14 and CW15 were given up by the prosecution.

32. The learned Additional Public Prosecutor argued that the prosecution has succeeded in proving the charge against the accused by adducing reliable and convincing evidence. This is a case where direct evidence of the commission of the offence is not available; therefore, the prosecution is relying on circumstantial evidence against the accused persons. The learned Additional Public Prosecutor submitted that the

prosecution has adduced reliable evidence regarding the motive behind the incident and the absconding of accused No. 1 immediately after the incident. The forensic evidence of the detection of the same human blood group in the MOs recovered from the body of the deceased at the time of preparing the inquest report and from the clothes worn by accused No. 1 at the relevant time, which were recovered based on the confession statement given by the accused, connects the accused with the crime. The learned Additional Public Prosecutor further relied on the extra-judicial confession statement given by accused No. 1 to some of the prosecution witnesses. He pointed out the statement made by accused No. 2, while being examined under Section 313 of the CrPC, that accused No. 1 took an iron bar from the construction site of his newly constructed house, attacked the deceased with it, and then returned it to its place. Therefore, the learned Additional Public Prosecutor prays for the conviction of the accused on the charges leveled against them.

33. The learned Deputy Chief Legal Aid Defence Counsel submitted that the prosecution has miserably failed to prove the guilt of the accused. In this regard, it was submitted that no proper investigation was conducted by the police. The prosecution has not proved the alleged motive against the accused. The alleged motive may not be treated as grounds for murdering a person. The evidence adduced by the prosecution does not align with the charges leveled against the accused. The learned Deputy Chief Legal Aid Defence Counsel further submitted that the alleged

disclosure statement of the accused failed to specify the exact place where the weapons were allegedly concealed. Hence, the learned Counsel argued against the relevancy of the disclosure statement of the accused under Section 27 of the Evidence Act. The learned Deputy Chief Legal Aid Defence Counsel sought the acquittal of the accused.

34. In the case at hand, there is no dispute regarding the fact that, the death of Vinayakumar was a homicide. The evidence tendered by PW14 and Ext.P8, the postmortem certificate, indicate that the death was due to injuries sustained to head. There was no challenge to the opinion given by PW14, regarding the cause of death. As such, it can be safely concluded that the prosecution has established the fact that the death of the victim was a homicide.

35. This is a case based on circumstantial evidence, and hence, the law states that the circumstances from which the conclusion of guilt is drawn must be fully proved, and such circumstances should be conclusive in nature.

36. In ***Sharad Birdhichand Sarda v. State of Maharashtra (1984 KHC 145)***, the Hon'ble Apex Court categorized five important conditions that must be fulfilled before a case against an accused can be said to be fully established on circumstantial evidence. The conditions are:

1. The circumstances from which the conclusion of guilt is to be drawn should be fully established.

2. The facts so established should be consistent only with the hypothesis of the guilt of the accused; that is to say, they should not be explainable on any other hypothesis except that the accused is guilty.
3. The circumstances should be of a conclusive nature and tendency.
4. They should exclude every possible hypothesis except the one to be proved.
5. There must be a chain of evidence so complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused, and must show that, in all human probability, the act must have been done by the accused.

37. Now, the prosecution case must be considered. The circumstances and events upon which the prosecution relies to form a complete chain include the absconding of accused No. 1 after the commission of the offence, the motive of the accused, and the fact that the blood group detected from the MOs, including the clothes recovered during the preparation of the inquest report of the deceased, was found to be the same as the blood group detected from the clothes worn by accused No. 1 at the relevant time, which were recovered based on the confession statement of accused No.1. Another connecting link the prosecution relied on is the extra-judicial confession statement of accused No. 1 to PW2 and PW9, as well as the evidence tendered by PW3 and PW7, corroborating the evidence provided by PW2 and PW8. Therefore, each

point raised by the prosecution must be analyzed in light of the evidence on record to assess the circumstantial evidence as claimed by the prosecution.

38. First of all, the evidence regarding the recovery of MO7 and MO8 (item Nos. 8 and 9 in Ext.P18) must be analyzed. It is a well established principle of law that, in order to make a disclosure statement relevant Under Section 27 of the Evidence Act, there must be subsequent confirmation. Here, the evidence tendered by PW17 indicates that based on the confession statement given by accused No.1, he arrived at a building situated on the eastern side of a narrow passage, leading from Pam-mankode Colony to Mudapuram Kasaya Hospital, as guided by accused No.1. Accused No. 1, then entered the building and took a shirt and dhoti from over the kitchen slab. PW17 testified that the dhoti and shirt were blood stained. He recovered them as per Ext.P10, the recovery mahazar. It is well settled that the evidence of a police officer cannot be discarded solely on the ground that he belongs to the police force, but his evidence must be considered as the evidence of any other witness. I do not find any reason to believe that PW17 falsely implicated accused No.1 in this case. The defence has not claimed that PW17, the police officer, has any personal rivalry with accused No. 1. I am of the opinion that, the evidence tendered by PW17 well establishes the recovery of MO7 and MO8, i.e., item Nos. 8 and 9 in the Ext. P18 report.

39. In this context, I placed reliance on the decision reported in **State of Maharashtra v. Suresh (2000 (1) SCC 471)**, the Hon'ble Apex Court in paragraph No. 26 has held as follows:-

"26. We too countenance three possibilities when an accused points out the place where a dead body or an incriminating material was concealed without stating that it was conceded by himself. One is that he himself would have concealed it. Second is that, he would have seen somebody else concealing it. And the third is that he would have been told by another person that it was concealed there. But if the accused declines to tell the criminal court that his knowledge about the concealment was on account of one of the last two possibilities the criminal court can presume that it was concealed by the accused himself. This is because accused is the only person who can offer the explanation as to how else he came to know of such concealment and if he chooses to refrain from telling the court as to how else he came to know of it, the presumption is a well justified course to be adopted by the criminal court that the concealment was made by himself. Such an interpretation is not inconsistent with the principle embodied in Section 27 of the Evidence Act"

40. In the case at hand, upon perusing the confession statement, the accused confessed that he had concealed the clothes at a place in Pammankode Colony and would show them, if he was brought there. PW6 obtained information regarding the concealed location from the accused, and subsequently, the articles were recovered as taken out by the accused from a building situated in Pammankode Colony.

41. The contention of the learned Deputy Chief Legal Aid Defence that the confession statement failed to disclose the exact place of concealment of objects and, therefore, lost its relevance cannot be accepted, as the subsequent recovery of the MOs from a location disclosed by the accused confirmed the information. I am inclined to accept the prosecution case regarding the recovery of MO7 and MO8, based on Ext. P10(a), the confession statement given by accused No. 1. This can be taken as a connecting link in the chain of circumstances to form a complete chain.

42. Next, the forensic evidence presented must be analyzed. Ext.P18 is the forensic science laboratory report, submitted by the Director of the Forensic Science Laboratory, Thiruvananthapuram. No specific proof is required for this document by virtue of Section 294(4)(e) of the CrPC. This document certifies that item Nos. 1 to 5, 8, and 9 contained human blood belonging to blood group B. Item No. 1 is a lungi with red, black, and white designs; item No. 2 is a soiled lungi with black, green, and white colored designs; item No. 3 is a cut-open, sleeveless baniyan with light rose, reddish brown, and brick red colors; item No. 4 is a rusted metallic rod with a maximum length of 77 cm. One end of it is made into a ring, and the other end is pointed. These are the MOs recovered while preparing the inquest of the deceased, Vinayakumar. PW1, the wife of the deceased, and PW5, a social worker who was present during the preparation of the inquest and examination of the body of the deceased,

identified them as MO1 to MO4. MO4 is an iron bar found at the scene of the crime. Item Nos. 8 and 9 (MO7 and MO8) are a dhoti and a full sleeve shirt, recovered based on a confession statement given by accused No. 1, as per Ext. P10 recovery mahazar. These MOs were recovered on 25/06/2010. The Court received the same as T.No. 333/2010. Ext. P18 indicates that item Nos. 8 and 9 are the properties received by the court as T.No. 333/2010. The clothes said to have been worn by accused No. 1 at the relevant time contained human blood belonging to blood group B. So, the clothes worn by the deceased and those worn by the accused both contained human blood of the same B group. The blood group of the deceased was determined at the blood bank, Medical College Hospital, Thiruvananthapuram, and it was found to be B RH +ve. This fact is revealed from Ext. P8, the postmortem certificate. This is very significant, as human blood belonging to blood group B was detected on the clothes worn by the deceased as well as on the clothes worn by accused No. 1. No explanation has been offered by accused No. 1 as to how the same blood group detected from the MOs recovered from the deceased ended up on his clothes worn at the relevant time. It is worth noting that, PW2 and PW9 noticed blood on accused No. 1's body as well as on the clothes he was wearing. PW17 also asserted that the clothes, when recovered, contained blood. When all this evidence is taken cumulatively, this is a very strong connecting link that connects the accused with the crime.

43. The next important aspect presented by the prosecution is the extra-judicial confession given by the accused. The latest authority on the point is held by the Hon'ble Apex Court in **Ramu Appa Mahapatra v. State of Maharashtra (2025 KHC Online 6103)**. The Hon'ble Apex Court held as follows:-

Extra-judicial confession can be relied upon and conviction can be based thereon if the evidence about the confession comes from a witness who appear to be unbiased, not even remotely inimical to the accused, and in respect of whom nothing is brought out which may tend to indicate that he may have a motive of attributing an untruthful statement to the accused. The words spoken by the witness should be clear, unambiguous and unmistakably convey that the accused is the perpetrator of the crime and that nothing is omitted by the witness which may militate against it. After subjecting the evidence of the witness to a rigorous test on the touchstone of credibility, the extra-judicial confession can be accepted and can be the basis of a conviction if it passes the test of credibility. If the evidence relating to extra-judicial confession is found credible after being tested on the touchstone of credibility and acceptability, it can solely form the basis of conviction. The requirement of corroboration is a matter of prudence and not an invariable rule of law. This court acknowledged that extra-judicial confession is a weak piece of evidence. Wherever the court intends to base a conviction on an extra-judicial confession, it must ensure that the same inspires confidence and is corroborated by other prosecution evidence. If the extra-judicial confession suffers from material discrepancies or inherent improbabilities and does not appear to be cogent, such evidence should not be considered.

44. I have analyzed the evidence of PW2 and PW9 in light of the aforesaid verdict of the Hon'ble Apex Court. Both PW2 and PW9 are from the hometown of accused No. 1. The evidence tendered by PW2 indicates that accused No. 1 is his neighbour. He stated that he found Sajeev on the evening of the day Vinayan was murdered, at around 10:30 PM, while he was returning home, after buying a cigarette from his friend's mother's shop. He noticed bloodstains on the dhoti worn by accused No. 1. Sajeev told him that, on that day at 3 PM, he went with Vinayan to Karunthalkadavu to consume liquor. There, a scuffle occurred following an argument, and during that night, in retaliation, he beat Vinayan. Then, PW9, a resident of Pammankode, provided evidence that on 13/05/2010 at about 7:30 - 8 PM, while he was standing in front of his house, he saw Sajeev going towards the Ninamkonam area with an iron rod. Later, at around 10:00 - 10:30 PM, Sajeev approached him at his house, and he noticed blood on Sajeev's body. When asked, Sajeev stated that he had attacked Vinayan. So, PW2 and PW9 have provided evidence regarding the confession made to them by accused No. 1 immediately after the incident. All of them are local people, and their evidence indicate that they were usually interacting with the accused. Both of them are rustic witnesses. The accused No. 1 voluntarily made the aforesaid statements to PW2 and PW9, local people, without any inducement or threat. There is no reason for PW2 and PW9 to provide such false evidence against

accused No. 1. Their evidence is reliable and credible, and there is nothing to disbelieve their version.

45. Additionally, other evidence adduced by PW3 and PW7 is also relevant. PW3 deposed that while he was watching a serial at his house, Sajeev came to his house and asked him to come along for some work on 13/05/2010 at 8:30 PM. Sajeev was holding an iron rod in his hand. PW7 testified that he saw Sajeev lead towards the road leading to the house of the deceased, Vinayan, that night. PW7 and PW9 identified MO5 as the iron rod held by Sajeev at the relevant time. Therefore, the evidence tendered by PW3 and PW7 aligns well with the evidence provided by PW2 and PW9. In this context, the evidence tendered by PW2 and PW9 can be accepted as linking evidence to corroborate the prosecution allegations against the accused.

46. Then, I shall consider Ext. P8, the postmortem certificate, which was marked through PW14, an additional witness, since the doctor (CW19), who conducted the postmortem examination of the deceased is no longer alive. As stated earlier, PW14 is also a Forensic Professor and a Police Surgeon. The evidence tendered by PW14 and Ext. P8, the postmortem certificate, established that rigor mortis was fully established and retained all over the body of the deceased when the postmortem examination commenced on 14/05/2010 at 2:50 PM.

47. In this context, I am placing reliance on an article dated 30/05/2023 published by the *National Library of Medicine, National Center for*

Biotechnology Information, as part of its continuing educational activities regarding the methods of estimating the time since death. It states that *rigor mortis is the postmortem stiffening of muscles caused by the depletion of adenosine triphosphate (ATP) from the muscles, which is necessary for the breakdown of actin-myosin filaments in the muscle fibers. Actin and myosin are components of the muscle fiber and form a bond during contraction. The cessation of oxygen supply causes the stoppage of aerobic respiration in the cells and leads to a lack of ATP production. Rigor mortis starts immediately after death and is usually seen in a sequence known as the "march of rigor" and Nysten's law.* While *rigor mortis develops simultaneously in all muscle tissue in the body, voluntary and involuntary, the size of the muscle determines the perceptibility of changes by the examiner. Smaller muscles over the fact - around the eyes, around the mouth, etc. are the muscles where rigor mortis first appears, followed by rigor mortis of the muscles in the hands and upper limbs and finally appears in the large muscles of the lower limbs. Rigor mortis appears approximately, 2 hours after death in the muscles of the face, progresses to the limbs over the next few hours, completing between 6 to 8 hours after death. Rigor mortis then stays for another 12 hours (till 24 hours after death) and then disappears. In the last phase of rigor mortis, the actin-myosin complex that has formed starts disintegrating due to proteolysis, resulting in the dissolution of the stiffness. This process begins in all the cells at the same time. However,*

just like with the appearance, this change is perceptible first in the smaller muscles of the face, followed by muscles of the upper limbs, and finally the large muscles in the lower limbs. Rigor mortis generally disappears 36 hours after death, followed by a phase known as secondary flaccidity.

48. PW17 Investigating officer filed Ext. P13, a report showing the date and time of death of the deceased, Vinayan. According to this report, the incident occurred on 13/05/2010 at around 9:45 PM. Accused No. 1 confessed to PW2 and PW9 around 10:30 PM that he had attacked the deceased. Thus, the time of death, based on the findings in Ext.P8, the postmortem certificate, and the evidence tendered by PW14, adds strength to the evidence provided by the aforementioned prosecution witnesses, which points to the guilt of accused No. 1.

49. Another point to be established by the prosecution is the absconding of the accused No.1 following the death of Vinayakumar. Convincing and cogent evidence has been presented to prove this allegation. The evidence provided by PW2 indicates that, the following morning, while he was returning home after his bath, he found accused No.1 talking to his contractor and also to Binu. When he asked Sajeev about Vinayan's death, Sajeev became stressed and said that he was leaving the area. He also borrowed Rs.500/- from the contractor. PW2 asserted that after this, he did not see accused No.1 again. In this context, the evidence tendered by PW6 is highly significant. He stated

that he knows Sajeev, and on 14/05/2010, Sajeev borrowed Rs.500/- from him. After that, he did not see him again. PW17 arrested the accused on 15/06/2010 at 6:30 PM, and Ext.P9 series documents establish this. Therefore, the evidence provided by PW2 and PW6 strongly supports the prosecution case regarding the absconding of accused No.1 the very next morning. Thus, the absconding of the accused No.1, after the incident is a crucial link connecting the accused to the crime.

50. According to the prosecution case, the scuffle that occurred on the afternoon of the day Vinayan was murdered is the motive behind the attack. The prosecution has adduced evidence regarding the motive as well. However, no direct evidence has been presented to prove this. PW2 testified that accused No.1 told him that on that day, at 3 PM, he went with Vinayan to Karunthalkadavu to consume liquor. There, a scuffle occurred following an argument. The contention that the incident stated as motive is not sufficient to kill another is without merit, in my opinion. This is because no one can predict how the human mind will react in a particular moment. Even minor provocations can lead to significant violence, and reactions may vary from person to person. Sometimes, the response is disproportionate to the initial incident. Therefore, I do not agree with the contention of the learned Deputy Chief Legal Aid Defence Counsel that the stated motive is insufficient to commit murder. I am inclined to accept the evidence of PW2, in light of the aforementioned

other evidence regarding the conduct of accused No.1 both prior to and after the incident.

51. As per the prosecution allegation, accused No.1 used MO5, an iron rod, and MO6, a chopper, to attack the deceased. In this context, the evidence tendered by PW7 is relevant. He stated that he saw accused No.1 going to the house of accused No.2, taking an iron rod from his house, and proceeding along the path leading to the house of the deceased. He identified MO5 as the iron rod. PW17 deposed that accused No.1 confessed that the chopper and iron rod used by him were given to accused No.2. Later, while in custody, Accused No.2 confessed that the chopper and iron rod were kept in a specific place in his house and that he would show them, if brought there. Based on this confession statement, MO5 and MO6 were recovered from behind the sixth arecanut reaper of the thatched roof of the kitchen in accused No.2's house. PW17 recovered them as per Ext.P4, the recovery mahazar. The said iron rod (MO5) was identified by PW7 and PW9 as being held by accused No.1 at the relevant time. PW3 deposed that he saw accused No.1 holding an iron rod in his hand, similar to MO5. Therefore, the evidence on record proves that accused No.1 proceeded to the house of the deceased while holding MO5, the iron rod. PW14, the forensic surgeon, stated that the antemortem injury Nos. 6, 7, and 8 noted in Ext.P8, the postmortem certificate, could have been caused by MO5, the iron rod. Although no blood was detected on MO5, the cogent evidence tendered by PW3, PW7,

and PW9 establishes the use of MO5, the iron rod, by accused No.1 to attack the deceased. PW14 further opined that injury Nos. 1 to 5 could have been caused by MO6, the chopper.

52. The prosecution case is that accused No.2 concealed the weapon used by accused No.1 in his house. The weapons were recovered from the house of accused No.2 based on Ext.P4(a), the confession statement given by accused No.2 to PW17. As stated earlier, PW17 recovered them as per Ext.P4, the recovery mahazar. PW8, an independent witness, testified in support of the recovery of these weapons from the house of accused No.2. PW8 is an attestor to Ext.P4, the recovery mahazar. He identified accused No.2 as the person brought by the police near his house. During cross-examination, he stated that he saw the police standing there with accused No.2 and the MOs. The police were coming out of the house of accused No.2, Shibu. He further asserted that the police seized MO5 and MO6 from Charuvilla House at Pammankode. The house of accused No.2 is Charuvilla Puthen Veedu. Thus, the evidence tendered by PW8 strongly supports the prosecution case, regarding the recovery of MO5 and MO6 from the house of accused No.2. Clearly, it adds strength to the prosecution case regarding the recovery of these weapons based on Ext.P4(a), the confession made by accused No.2. As stated earlier, it is well established law that in order to make a disclosure statement relevant under Section 27 of the Evidence Act, there must be subsequent confirmation. Therefore, the recovery of the MOs

substantiates the prosecution case regarding the disclosure statement made by accused No.2. In light of the principles laid down in *State of Maharashtra v. Suresh* (supra), the recovery can be accepted. It can also be taken as a connecting link in a chain of circumstances to form a complete chain.

53. In this context, the evidence tendered by PW14, stating that antemortem injury Nos. 1 to 5 noted in Ext.P8, the postmortem certificate, could have been caused by MO6, the chopper, and that antemortem injury Nos. 6, 7, and 8 could have been caused by MO5, the iron rod, is highly significant. This is because both facts, the recovery of MO5 and MO6 based on the confession statement of accused No.2 and the possibility that antemortem injury Nos. 1 to 8 could have been caused by MO5 and MO6, strongly corroborate the prosecution case that accused No.1 handed over the weapons to accused No.2 after committing the offence. The possible inference, therefore, would be that the accused No.1 is responsible for the commission of the murder of the deceased.

54. The case is based on circumstantial evidence, and it is settled law that the circumstances from which the conclusion of guilt is drawn must be fully proven, and such circumstances must be conclusive in nature. In this context, when the evidence on record is analyzed, the prosecution has established the following evidence, which allows for the inference:-

- (a) On 14/05/2010 at 8:30 AM, PW1, the wife of the deceased Vinayan, found him lying dead. Her husband had been present in the house, the previous night.
- (b) At around 10:30 PM on 13/05/2010, accused No.1 told PW2 and PW9 that he attacked Vinayan and informed PW2 that the attack was in retaliation for an incident that occurred at 3:00 PM between him and Vinayan while they were consuming liquor at Karunthalkadavu.
- (c) Accused No.1 absconded upon learning of the death of the deceased on the morning of 14/05/2010, after borrowing Rs.500/- from PW6.
- (d) On 13/05/2010 at around 8 - 8.30 PM , accused No.1 approached PW3 and PW7, asking them to come along with him. He then proceeded along the path leading to the house of the deceased, Vinayan, with an iron rod.
- (e) MO1 to MO4 were recovered during the preparation of Ext.P3, the inquest report, after examining the body of the deceased.
- (f) MO7 and MO8, the dhoti and shirt worn by accused No.1 at the relevant time, were recovered based on Ext.P10(a), the confession statement given by accused No.1 to PW17, while the accused was in the custody of PW17.
- (g) The blood group of the deceased was B Rh +ve.
- (h) MO1 to MO3, recovered from the person of the deceased, MO4, the iron bar recovered from the scene of the crime, and MO8 and

MO10, the clothes worn by accused No.1 at the relevant time, contained human blood belonging to group B.

(i) The accused did not offer any explanation as to how the blood found on the clothes and slippers worn by the deceased was also detected on his clothes.

(j) The accused used MO5, an iron rod, and MO6, a chopper, to attack the deceased. These weapons were recovered based on the confession statement given by accused No.2 to PW17, while the accused was in the custody of PW17.

55. All the aforementioned circumstances are complete, with no gap left in the chain of evidence. The proved circumstances are consistent with the hypothesis of the guilt of accused No.1 and completely inconsistent with his innocence. Based on the circumstantial evidence discussed, the inference of the guilt of accused No.1 can be justified.

56. The contention that the brother of the deceased was also present in the house cannot absolve accused No.1 of liability from the circumstances discussed above. The police, after a thorough investigation, have implicated accused No.1 in this case. The circumstances discussed above substantiate the decision of the investigating officer. The mere presence of the brother of the deceased, who is no longer alive, though cited as CW1, cannot be a ground to give any benefit of doubt to accused No.1 in the given circumstances.

57. The evidence tendered by PW14 and the Ext.P8 postmortem certificate clearly mention the antemortem injuries sustained by the deceased. There were 23 antemortem injuries. PW14 opined that injury Nos. 1 to 8, with their effect on the brain, were sufficient, in the ordinary course of nature, to cause death. Injury Nos. 1 to 5 are incised wounds, and injury No. 6 is a contusion, with the upper orbital margin showing a fissured fracture. Injury Nos. 7 and 8 are lacerated wounds. The right, central, and lateral incisor teeth of the upper jaw were fractured at their root and depressed. Underneath antemortem injuries Nos. 2 to 5, the occipital bone was fractured and fragmented, with a fissured fracture extending through the left parietal bone. These injuries demonstrate the force used by the accused No.1 to attack the deceased. The antemortem injuries show that Accused No.1 brutally attacked the victim with MO5 and MO6. The injuries clearly indicate that the accused assaulted the deceased with the intention of causing such bodily injury, knowing that it was likely to cause the victim's death.

58. The prosecution case is that accused No.1 and accused No.2 entered into a criminal conspiracy, and that accused No.1 attacked Vinayan, the deceased in furtherance of their common intention to cause his death and concealed the MOs. However, there is practically no evidence to prove the criminal conspiracy between the accused. It is true that the witnesses testified about the presence of accused No.2 along with accused No.1 at night. However, their evidence indicate that other

people, namely Ragesh, Binu and Sudhi, were also present with accused No.1. Admittedly, according to the prosecution case, accused No.2 was not involved in committing the murder of Vinayan. Moreover, as per the evidence tendered by PW2, accused No.2 was not present during the incident that took place in the afternoon of that day, which led to the retaliation resulting in the killing of the deceased. Thus, the presence of accused No.2 alongside accused No.1 and other individuals is not at all sufficient to establish the criminal conspiracy between the accused. In light of this, I have no hesitation in holding that the prosecution has miserably failed to show that accused No.2 entered into a criminal conspiracy with accused No.1, and that accused No.1 committed the murder of the deceased in furtherance of the common intention of both accused.

59. I have already mentioned the evidence of PW2, PW3, and PW7 regarding the presence of accused No.2 along with Accused No.1 at the relevant time. Therefore, he should have known about the commission of the offence by accused No.1. I have already concluded that MO5 and MO6 were used by accused No.1 to commit the offence, and the prosecution further established that these weapons were recovered from the house of accused No.2. The learned Additional Public Prosecutor pointed out the admission of accused No.2 during the examination under Section 313 of the CrPC, where he stated that the iron rod was recovered from the construction site of his house with the help of a police dog.

However, even otherwise, the aforementioned evidence establishes the recovery of MO5 and MO6 from the house of accused No.2. He cannot wash his hands of the responsibility for concealing the weapons in his house. I am of the opinion that the prosecution has established beyond a reasonable doubt that accused No.2 knew, or had reason to believe, that the offence was committed by accused No.1, using MO5 and MO6. With such knowledge, he concealed MO5 and MO6 in his house in order to destroy the evidence of the commission of the offence. Without accused No.1 handing over the weapons to accused No.2, they could not have come into the possession of accused No.2.

60. The discussion leads to the conclusion that the prosecution has successfully established that accused No.1 committed the murder of Vinayan. Hence, he is found guilty of the offence punishable under Section 302 of the Indian Penal Code and convicted him under Section 235(2) of the CrPC for the said offence. Accused Nos.1 and 2 are found guilty of the offence punishable under Section 201 r/w 34 of the IPC and convicted them under Section 235(2) of the CrPC for the said offence. Accused No.2 is found not guilty of the offence punishable under Section 302 r/w 34 of the Indian Penal Code, and accused Nos.1 and 2 are found not guilty of the offence punishable under Section 120B of the Indian Penal Code, and they are acquitted under Section 235(1) of the CrPC for the said offences. The points are answered accordingly.

Having considered the facts and circumstances of the case, I am not inclined to invoke the provisions of Section 360 CrPC. The case is adjourned for hearing the accused on the question of sentence on 28/02/2025.

Dictated to the Confidential Assistant, typed by her, corrected by me and pronounced in Open Court on this, the 27th day of February, 2025.

Sd/-
SIJU SHEIK,
ADDL. SESSIONS JUDGE- V.

28/02/2025

61. Point No. (iv):-

Accused Nos.1 and 2 were heard on sentence. They submitted that, they have families to maintain and no one to help them. They are the sole breadwinners of their family. The learned deputy chief legal aid defence counsel for the accused submitted that, the accused deserved a lenient view in the matter of sentencing.

62. The learned Additional Public Prosecutor submitted to impose the maximum penalty.

63. In the matter of sentence, it is beneficial to go through **Gopal Singh v. State of Uttarakhand (2013 KHC 4133)**. The Hon'ble Apex Court held that, just punishment is the collective cry of the society. While collective cry has to be kept uppermost in the mind, simultaneously the principle of proportionality between the crime and punishment cannot be totally brushed aside. Their Lordships held that the nature of culpability,

the antecedents of the accused, the factum of age, the potentiality of the convict to become a criminal in future, capability of his reformation and to lead an acceptable life are the factors to be considered. Similarly, an offender cannot be allowed to be treated with leniency solely on the ground of discretion vested in a Court.

64. Here, there were 23 antemortem injuries sustained by the victim. Injury Nos. 1 to 5 are incised wounds, and injury No. 6 is a contusion, with the upper orbital margin showing a fissured fracture. Injury Nos. 7 and 8 are lacerated wounds. The right, central, and lateral incisor teeth of the upper jaw were fractured at their root and depressed. Underneath antemortem injury Nos. 2 to 5, the occipital bone was fractured and fragmented, with a fissured fracture extending through the left parietal bone. These injuries demonstrate the force used by the accused No.1 to attack the deceased. The antemortem injuries show that, accused No.1 brutally attacked the victim with MO5 and MO6. Injury Nos. 1 to 8 with their effect on the brain resulted in the death of Vinayakumar. It was evidently an one sided attack by the accused, actuated by the motives mentioned. For the purpose of passing adequate sentence, it is necessary to consider the age, family background, antecedents, the gravity of the crime and impact of the crime on the society and also the possibility of the accused being reformed. Here, I am of the considered opinion that there is a chance of reformation.

On considering all these facts and circumstances, I am of the opinion that the case would not come under the category of rarest of rare cases. Bearing in mind all these facts and circumstances of the case, I find that the following sentence would serve the purpose:-

- (a) Accused No.1 is sentenced to undergo rigorous imprisonment for life and to pay fine of Rs.1,00,000/- (Rupees One Lakh only) and in default of payment of fine, to undergo rigorous imprisonment for a further period of one year for the offence punishable Under Section 302 of the IPC.
- (b) Accused Nos.1 and 2 are sentenced to undergo rigorous imprisonment for a period of 2 (Two) years each and to pay fine of Rs.10,000/- (Rupees Ten Thousand only) each and in default of payment of fine, to undergo rigorous imprisonment for a further period of One month each for the offence punishable Under Section 201 r/w Section 34 of the IPC.
- (c) If fine amount is paid, Rs.1 lakh shall be paid to PW1, the wife of the deceased Vinayakumar, U/S. 357(1)(b) Cr.P.C.
- (d) The sentences shall run concurrently.
- (e). The accused are entitled to set off their under trial imprisonment against the substantive sentence U/S 428 of the CrPC. If the Government exercises its powers U/S 433 of the Cr.P.C., the period during which the accused No.1 had been in

custody in connection with this case will be set off and the default clauses mentioned above will come into force.

The pre-conviction detention undergone by the accused is stated below:-

	From	To
Accused No.1	15/06/2010	28/08/2010
	24/08/2013	08/11/2013
	07/08/2017	19/06/2019
	26/07/2024	28/02/2025
Accused No.2	27/08/2010	18/09/2010

- (f) MOs being valueless, shall be destroyed after the expiry of appeal period.

Dictated to the Confidential Assistant, typed by her, corrected by me and pronounced in Open Court on this, the 28th day of February, 2025.

Sd/-
SIJU SHEIK,
ADDL. SESSIONS JUDGE- V.

APPENDIX

List of Prosecution / Defence /Court Witnesses

A. Prosecution Witnesses:-

Rank	Date	Name	Whether Eye Witness, Expert Witness, Medical Witness, Other Witness
PW1	12/12/2024	Sandhya	
PW2	12/12/2024	Sajith	
PW3	12/12/2024	Ratheesh	
PW4	12/12/2024	Binu	

PW5	13/12/2024	Anilkumar	
PW6	13/12/2024	Pratheesh	
PW7	13/12/2024	Subi	
PW8	13/12/2024	Sasi	
PW9	16/12/2024	Anilal	
PW10	16/12/2024	Shafi	
PW11	17/12/2024	Sasikumar	
PW12	17/12/2024	G.B Mukesh	
PW13	18/12/2024	C.Vinod	
PW14	10/01/2025	Dr.Sharija	Medical witness
PW15	22/01/2025	Babu	
PW16	11/02/2025	Nazeer M.A	
PW17	13/02/2025	Pramodkumar.N	

B. Defence Witness:- Nil**C. Court Exhibits:- Nil****List of Prosecution / Defence /Court Exhibits****A. Prosecution Exhibits:-**

Exhibit Number	Date	Description
P1	14/05/2010	FIS
P2	10/07/2010	Portion of 161 statement of PW4
P2(a)	10/07/2010	Portion of 161 statement of PW4
P2(b)	10/07/2010	Portion of 161 statement of PW4
P3	14/05/2010	Inquest Report
P4	28/08/2010	Seizure Mahazar
P4(a)	28/08/2010	Confession Statement of A2
P5	-	Scene Plan
P6	14/05/2010	FIR
P7	14/05/2010	Property List (T.271/10)
P8	14/05/2010	Post-mortem Certificate
P9	15/06/2010	Custody Memo(A1)

P9(a)	15/06/2010	Inspection Memo (A1)
P9(b)	15/06/2010	Arrest Memo(A1)
P10	25/06/2010	Seizure Mahazar
P10(a)	25/06/2010	Confession Statement of A1
P11	25/06/2010	Property List (T.333/10)
P12	16/06/2010	Report regarding address of A1
P13	16/06/2010	Report regarding time of occurrence
P14	27/08/2010	Report regarding address of A2
P15	27/08/2010	Custody Memo(A2)
P15(a)	27/08/2010	Arrest Memo(A2)
P15(b)	27/08/2010	Inspection Memo (A2)
P16	28/08/2010	Property List (T.437/10)
P17	18/01/2011	Copy of forwarding note
P18	30/12/2013	FSL Report

B. Defence Exhibits:- Nil

C. Court Exhibits:- Nil

D. Material Objects:-

MO1series	കൈലികൾ, ബന്നിയൻ
MO2	ചരട്
MO3	ചെത്തപ്പ്
MO4	അറ്റം വള്ളത്ത കമ്പി
MO5	പിരിയൻ കമ്പി
MO6	വെട്ടകത്തി
MO7	മുണ്ട്
MO8	ഷർട്ട്

Id/-

ADDL. SESSIONS JUDGE- V.

(True Copy)

(By Order)

SHERISTADAR

**CALENDAR STATEMENT IN SESSIONS CASE No.626/2012 OF THE
ADDL.SESSIONS COURT-V, THIRUVANANTHAPURAM.**

Serial No	Sessions Case No. 626/2012
Name of Police Station & Crime No. of Offences	Crime No.304/2010 of Chirayinkeezhu Station

Description of Accused

A1 A2

Name	Sajeev @ Beedi	Shibu @ Ayirampallan
Father's Name	Sasi @ Beediyen	Suseelan
Residence	Charuvila Veedu, Pammankod, Parayathukonam, Kizhuvilam Desom, Kizhuvilam Village, (Parayaravilakam Laksham Veedu No.84, Ward No.17, Valiya Ela, Koonthalloor Village).	Charuvila Puthen Veedu, Pammankod, Chittattinkara Desom, Kizhuvilam Village.
Age	42 Years	45 Years

Date of

Occurrence	14/05/2010
Complaint	24/10/2011
Apprehension	A1- 15/06/2010, A2- 27/08/2010
Release on bail	A1- 28/08/2010, A2- 18/09/2010
Commitment	04/05/2012
Commencement of trial	12/12/2024
Close of Trial	20/02/2025
Sentence of Order	28/02/2025
Name of Committing Magistrate	Smt. Beveena Nath K.S, Judicial 1 st Class Magistrate-I, Attingal.
Explanation for delay	-

Addl.Sessions Court-V,
Thiruvananthapuram,
Dated: 28/02/2025

Id/-
ADDL.SESSIONS JUDGE-V

(True Copy) (By Order)

SHERISTADAR

Copy of Judgment in S.C.No.626/2012
Dated: 28/02/2025
